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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,652	04/05/2001	Ronald D. Olsen	11983.0076	3485

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER

WANG, TED M

ART UNIT	PAPER NUMBER
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2634

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/826,652

Applicant(s)

OLSEN ET AL.

Examiner

Ted M Wang

Art Unit

2634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters; prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-20 is/are allowed.
- 6) ☒ Claim(s) 1-7, 21-23, 27, 28, and 30 is/are rejected.
- 7) ☒ Claim(s) 24-26 and 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-30 are pending in the application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 21-23, 27, 28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Earnest (US5,982,837) in view of Kilkki (US6,163,808).

- In regard claim 1, Earnest discloses an automatic baud rate detector with determining durations, each duration corresponding to time elapsed between detection of a first logical event a signal and a second logical event of the signal (column 3 lines 29-55 and column 9 claim 8); selecting a first duration from the durations, and incrementing a first counter for each occurrence of the first duration to provide a first total value (Fig.2 element 44, column 4 line 8 – column 5 line 67, column 3 lines 50-67) except specifically teaching incrementing a second counter for each occurrence of a second duration to provide a second total value, the second duration corresponding to the selected duration plus a

time interval; and determining a bit rate weighted average corresponding to the first and second total values.

Kilkki discloses a network adjust cell transfer capacity in response to change in the actual bit rate related to the nominal bit rate with incrementing a second counter for each occurrence of a second duration to provide a second total value (Fig.10 elements 24-35, column 14 line 36 – column 15 line 23, and column 24 claim 16), the second duration corresponding to the selected duration plus a time interval (column 24 lines 34-36 and column 14 line 49 – column 15 line 23); and determining a bit rate weighted average corresponding to the first and second total values (column 14 line 49 – column 15 line 19 and column 24 claim 16) in order to simplify the implementation of the network management architecture and provide better quality of the service to users.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Earnest's automatic baud rate detector in view of Kilkki's disclosure in order to simplify the implementation of the network management architecture and provide better quality of the service to users..

- In regard claim 2, the limitation of determining one of the durations includes counting time intervals between detection of first logical event and detection of the second logical event can further be taught by Earnest in Fig.1 elements 20-26 and column 3 lines 29-55.

- In regard claim 3, the limitation of the first logical event is detected by sensing a leading edge of a pulse corresponding to the signal can further be taught by Earnest in Fig.1 elements 20-26 and column 3 lines 29-55.
- In regard claim 4, the limitation of the first logical event is detected by sensing a leading edge of a pulse corresponding to the signal can further be taught by Earnest in Fig.1 elements 20-26 and column 3 lines 29-55.
- In regard claim 5, the limitation of the first duration is the shortest duration among the plurality of durations can further be taught by Kilkki in column 22 lines 37-42.
- In regard claim 6, the limitation of the bit rate is a mathematical inverse of one-half of the weighted average can further be taught by Earnest in column 3 line 35 – column 4 line 7.
- In regard claim 7, the limitation of the bit rate is a mathematical inverse of one-half of the weighted average can further be taught by Earnest in column 3 line 35 – column 4 line 7.
- In regard claim 21, which is a software implementation of claim 1, all limitation is contained in claim 1. The explanation of all the limitation is already addressed in the above paragraph. Further limitation of the software implementation can further be taught by Earnest in column 1 lines 31-55.
- In regard claim 22, which is a software implementation of claim 5, all limitation is contained in claim 5. The explanation of all the limitation is already addressed in the above paragraph.

- In regard claim 23, which is a software implementation of claim 2, all limitation is contained in claim 2. The explanation of all the limitation is already addressed in the above paragraph.
- In regard claim 27, which is a software implementation of claim 7, all limitation is contained in claim 7. The explanation of all the limitation is already addressed in the above paragraph.
- In regard claim 28, which is a system claim related to claim 1, all limitation is contained in claim 1. The explanation of all the limitation is already addressed in the above paragraph. Further limitation of a computer connected to a transmission line can further be taught by Kilkki in column 1 lines 11-23.
- In regard claim 30, which is a system claim related to claim 3, all limitation is contained in claim 3. The explanation of all the limitation is already addressed in the above paragraph.

Allowable Subject Matter

4. Claims 8-20 are allowed.
5. Claims 24-26 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. Reference US6,215,414, US5,631,925 and J. Christoph Scheytt, "a 0.155-, 0.622-, and 2.488-Gb/s Automatic Bit-Rate Selecting Clock and Data Recovery IC for

Bit-Rate Transparent SDH System", IEEE Journal of Solid-state Circuits, Vol. 34, No. 12. pp. 1935-1943, December 1999 are cited because they are put pertinent to the Bit-rate detection. However, none of references teach detailed connection as recited in claim.

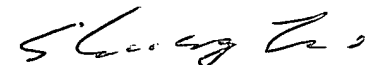
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted M Wang whose telephone number is (703) 305-0373. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Chin can be reached on (703) 305-4714. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

Ted M Wang
Examiner
Art Unit 2634

Ted M. Wang



SHUWANG LIU
PRIMARY EXAMINER